

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA,)	
)	
Petitioner,)	
)	
v.)	1:12MC43
)	
QUANTELLA WILLIAMS,)	
)	
Respondent.)	

ORDER AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE
ON PETITION TO ENFORCE INTERNAL REVENUE SERVICE SUMMONS

This matter came before the Court on September 13, 2012, on the Petition of the United States of America, on behalf of the Internal Revenue Service, under the authority of 26 U.S.C. §§ 7402(b) and 7604(a), to judicially enforce an Internal Revenue Summons.

Joan B. Binkley, Assistant United States Attorney, and Revenue Officer O. A. Graham (now Olivia Green) appeared on behalf of the Petitioner, United States of America. Respondent Quantella Williams failed to appear.

The United States tendered the Declaration of Revenue Officer O. A. Graham who is a Revenue Officer of the Internal Revenue Service, employed in the Small Business/Self-Employed Division of the Internal Revenue Service located at Raleigh, North Carolina, and is authorized to issue Internal Revenue Service summonses pursuant to the authority contained in 26 U.S.C. § 7602, and Treasury Regulations, 26 C.F.R. § 301.7602-1.

Based on that Declaration, the Court found that the Government made a prima facie showing that:

1) An investigation is being conducted by Revenue Officer O. A. Graham pursuant to a legitimate purpose; specifically that the summons was issued for the legitimate purpose of investigating the federal income tax liability of Quantella Williams for the calendar years ended 12/31/2004, 12/31/2005, 12/31/2006, and 12/31/2007, and collecting any such liability, as set forth in the Declaration of Revenue Officer O. A. Graham attached to the Petition;

2) The inquiry made is relevant to the legitimate purpose;

3) The information sought is not already within the IRS's possession and the Respondent, Quantella Williams, is believed to be in possession and control of testimony and documents concerning the above-described investigation; and

4) The administrative steps required by the Code have been followed. See United States v. Powell, 379 U.S. 48, 57-58 (1964); Alphin v. United States, 809 F.2d 236, 238 (4th Cir.1987).

The United States Marshals Service personally served Quantella Williams with a copy of the Petition on August 10, 2012. The Respondent did not file or serve a written response to the Petition nor did he make any motions in response.

At the hearing, Petitioner confirmed that there is no Department of Justice referral in effect with respect to the Respondent under investigation, as that term is defined in Title 26 U.S.C. § 7602(d).

Based on these determinations, this Court recommends that the Petition by the United States of America be granted and that Respondent Williams be ordered to appear and produce for examination the books, papers, records, or other data as provided in the summons.

IT IS THEREFORE RECOMMENDED that the Petition [Doc. #1] be GRANTED and that an Order be entered compelling Respondent Quantella Williams to obey the Internal Revenue Service Summons served on him on March 6, 2012, by appearing on November 14, 2012, at 10:00 a.m., before Revenue Officer O. A. Graham, at 4405 Blanc Road, Suite 100, Raleigh, NC 27609, to testify and to produce for examination documents and records as described in the Summons.

IT IS FURTHER ORDERED that the United States Marshal for this District serve a copy of this Order personally upon Quantella Williams, within 14 days of the date of this Order.

This, the 14th day of September, 2012.

/s/ Joi Elizabeth Peake
United States Magistrate Judge